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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/775,103	02/11/2004	Ryo Kawahara	2023-0104002Reg	2619
22850	7590	08/24/2005	EXAMINER	
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.			DIACOU, ARI M	
1940 DUKE STREET			ART UNIT	
ALEXANDRIA, VA 22314			PAPER NUMBER	
			3663	

DATE MAILED: 08/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.		Applicant(s)	
	10/775,103		KAWAHARA ET AL.	
	Examiner		Art Unit	
	Ari M. Diacou		3663	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) 6-32 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Group I to the method of AGC control with information about the input and output control in the reply filed on 8-9-2005 is acknowledged.
2. Claims 6-32 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 8-9-2005.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of

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the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Park et al. (USP No. 10/719140) in view of Chan et al. (USP No. 10/243774). Park discloses a method for automatic gain control by reading input and output optical signals into a control circuit and implementing a proportional and integral calculation, determining the difference between a control parameter and a reference value control parameter, and then adjusting the current to a pump laser diode to induce a controlled power spectrum profile of the amplified optical output signal [¶ 0010, 0017, 0021]. Park however fails to disclose detection of the input and output signal, as well as comparing the gain of the amplifier to a reference gain. Chan teaches the use of a detection step in the method of optical amplification [¶ 0066], and the use of measuring the gain of the optical amplifier and comparing it to a reference gain [¶ 0064-0065]. Therefore, it would have been obvious to one skilled in the art (e.g. an optical engineer) at the time the invention was made, to create a method of optical amplification whereby the input was detected (for the purpose of protecting downstream optical components from high-power noise in the case of an upstream fiber break), obtaining a difference between the present gain and

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the optimal reference gain (because the circuit needs to know whether to increase or decrease the gain, and thereby the power to the pump source), implementing a proportional and integral calculation to obtain a proper pump current (which will vary the pumping current until the gain of the optical amplifier matches the optimal reference gain, a method standard in the art), and controlling the current to the optical pump source (for the advantage of controlling the amount of population inversion present in the fiber which uses stimulated emission as an amplification mechanism, thereby controlling the gain of the optical amplifier).

7. Claims 2, 3 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Park in view of Chan as applied to claim 1 above. Claims 2, 3 and 5 describe steps in a method which are practiced in a PID circuit during normal operation.

8. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Park in view of Chan as applied to claim 1 above. While Park is silent on the mechanism of adding and dropping optical channels in a system with WDM signals, Chan teaches that after initial preamplification, channels of the signals may be added or dropped before being read into the control circuit for calculation [¶ 0076, Fig. 3]. Therefore, it would have been obvious to one skilled in the art (e.g. an optical engineer) at the time the invention was made, to vary the power of the incoming optical signal by adding and/or dropping channels before the proper gain were calculated, for the advantage of increased control of the optical gain profile of the optical amplifier.

Conclusion


9. While patent drawings are not drawn to scale, relationships clearly shown in the drawings of a reference patent cannot be disregarded in determining the patentability of claims. See In re Mraz, 59 CCPA 866, 455 F.2d 1069, 173 USPQ 25 (1972).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ari M. Diacou whose telephone number is (571) 272-5591. The examiner can normally be reached on Monday - Friday, 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Keith can be reached on (571) 272-6878. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AMD 8-19-2005


JACK KEITH
PRIMARY EXAMINER
SPE 3662